

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
Section 9767.5	Re access requirements, commenter recommends (1) include contract requirements for hospital providers in establishing an MPN; (2) in the review and approval process of the MPN consider the relationships of the physician panels with the area hospitals.	Barbara Jones Jones Research and Consulting on behalf of Tenet Healthcare Corp. November 22, 2004 Written comment	We disagree. The MPN does not need to have a contract with the hospitals, as such a requirement would be prohibitive for many employers. Requiring the MPN to consider the relationship of the physician panel with area hospitals would be too burdensome for the MPN applicants.	None.
Sub panels	<p>A MPN could be a subset of providers from an existing HMO or insurance panel, without containing all of the requirements for continuity of care, access, prompt payment, notice requirements and dispute resolution which exist under DMHC or DOI. Commenter recommends DWC require an explanation from an MPN applicant to justify a sub panel.</p> <p>Another issue is notification to sub-panel. Commenter recommends advance notification to the existing full panel of providers that the MPN sub-panel is being created and provide an ongoing list of sub-panel participating providers, impacted employers/payers, and any changes to operating policies.</p>	Barbara Jones Jones Research and Consulting on behalf of Tenet Healthcare Corp. November 22, 2004 Written comment	<p>We disagree. If the MPN applicant uses an existing HCO, it applies pursuant to section 9767.3(e). If the MPN applicant is using some of the doctors from an HCO, it must apply under section 9767.3(d) and provide additional information, just like any other MPN applicant that has created a MPN that was not previously approved as an HCO.</p> <p>We disagree. The sub panel idea conflicts with the statutory requirements.</p>	<p>None.</p> <p>None.</p>
Steerage	In HMO/PPO care access, if the patient does not follow the care access and authorization requirements, there is a financial penalty. What leverage upon the patient will be available to encourage proper payment by their plan/payer as in health benefits? Is there any provision for penalties on patients that do not follow their MPN policy requirements?	Barbara Jones Jones Research and Consulting on behalf of Tenet Healthcare Corp. November 22, 2004 Written comment	There is no financial penalty placed on injured workers as Labor Code section 4600 requires employers to provide the employee with medical services reasonably required to cure or relieve the injured worker from the effects of his or her injury. Disputes concerning the patient's proper access to medical treatment may be brought before the WCAB.	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
Apportionment of Responsibility: Identification	What provisions will the MPN have to ensure a hospital provider is knowledgeable of the proper documentation and billing of a claim – i.e workers' comp or health insurance?	Barbara Jones Jones Research and Consulting on behalf of Tenet Healthcare Corp. November 22, 2004 Written comment	This comment goes beyond the scope of these regulations.	None.
Apportionment of Responsibility: Risk Avoidance	Due to the conflicts between benefits under health insurance in workers' comp, DWC must establish a dispute resolution mechanism outside of the WCAB to keep the system from being overwhelmed.	Barbara Jones Jones Research and Consulting on behalf of Tenet Healthcare Corp. November 22, 2004 Written comment	This comment goes beyond the scope of these regulations.	None.
Oversight	<p>The jurisdiction for oversight becomes muddled without the ability to clearly designate a claim to be a health benefit or an authorized work related injury. It is likely that both the WCAB and the licensing entity will be contacted to address failures to pay, incorrect payments, concerns with eligibility, authorization, benefits or other issues. Providers would benefit from an explanation of intended oversight and jurisdiction.</p> <p>DWC must be aware of sub panels that may be developed but that do not fully comply with the existing panel requirements under the DMHC or DOI.</p>	Barbara Jones Jones Research and Consulting on behalf of Tenet Healthcare Corp. November 22, 2004 Written comment	<p>These issues may be addressed in the contract between the MPNs and the providers. This comment goes beyond the scope of these regulations.</p> <p>The MPNs must meet the requirements of Labor Code section 4616 et seq. and the regulations or they will not be approved. The legislature does not require them to comply with the requirements of DMHC or DOI.</p>	<p>None.</p> <p>None.</p>
Nurse Practitioners and PAs	Will nurse practitioners and PAs be included in a MPN? This is a concern because NPs and Pas offer a lot of clinical services.	Barbara Burgel, RN, MS, FAAN Clinical Professor and Adult Nurse Practitioner UCSF December 9, 2004	While only physicians are required to be offered in an MPN per Labor Code section 4616(a)(1), a MPN may choose to also include PAs and NPs.	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
		Written email comment		
Section 9767.12(a)	Section 9767.12(a) refers to Labor Code section 4616.3 as basis for requiring prior notification to employees, but section 4616.3 only requires notification after an injury, not on a blanket basis.	Dennis Osgood Sr. VP, Work Comp Claims ICW Group December 10, 2004 Written email comment	We agree that the reference to Labor Code section 4616.3 was misplaced. However, we disagree with the commenter's interpretation that Labor Codes section 4616.3 specifies that the notification must be sent after an injury. Also, Labor Code section 4616(g) provides the AD with authority to establish MPN procedure, which includes employee notifications.	We will amend section 9767.12 to delete the reference to Labor Code section 4616.3.
Section 9767.5	<p>Recommends amending section to read: "MPN must have <u>all types of providers of occupational health services and specialists, and all types of covered occupational health services, therapies and treatments</u> within 60 minutes or 30 miles of a covered employee's residence or workplace."</p> <p>Commenter states that the change is needed to ensure appropriate access to chronic, intractable pain therapies such as neurostimulators or intrathecal drug pumps.</p>	N. William Fehrenbach Medtronic Neurological December 28, 2004 Written Comments	We disagree. This recommendation goes beyond the requirements of Labor Code section 4616. The statute provides that "The provider network shall include an adequate number and type of physicians ... or other providers ...to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged..." (Labor Codes section 4616(a)(1)).	None.
Section 9767.5(a)	<p>Commenter recommends amending subdivision to read: "A MPN must have at least three physicians of each specialty <u>adequately trained in each type of needed service or treatment</u>, expected to treat common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged in within the access standards set forth in (b) and (c).</p> <p>Or, the subdivision could be amended to read: "(a) For treatment of all occupational health</p>	N. William Fehrenbach Medtronic Neurological December 28, 2004 Written Comments	We disagree. The first recommended amendment is vague and does not clarify the section. The second recommended amendment is contradictory, as the "common injuries experienced by injured employees" may not include chronic intractable pain, and therefore the MPN would not need to include such a specialist. An injured employee is entitled to be treated by a specialist (section 9767.6(e)), and if a specialist is not available within the MPN,	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>injuries, including but not limited to the treatment of chronic intractable pain, an injured worker must have a choice of at least three physicians of each specialty adequately trained in and willing to treat all common injuries experienced by injured employees based on the type of occupation or industry in which the employee is engaged in within the access standards set forth in (b) and (c).</p> <p>This will ensure that physicians who are qualified to implant high-tech devices to treat chronic, intractable pain will be available to injured employees.</p>		Labor Code section 4616.3 (d)(2) provides that treatment outside the network may be permitted on a case-by-case basis.	
Section 9767.1(1)(18) or 9767.5	To ensure adequate access for patients in need of devices that treat chronic, intractable pain, neurosurgeons and anesthesiologists who typically treat chronic pain should be considered “primary treating providers,” or patients are guaranteed “direct access” to in-network neurosurgeons and anesthesiologists.	N. William Fehrenbach Medtronic Neurological December 28, 2004 Written Comments	We disagree. Labor Code section 4616.3 provides that the employer shall arrange the initial medical evaluation. After the first visit, the employee may choose the physician, which could be a specialist.	None.
Section 976.14	The complaint process should be spelled out for injured workers and doctors in need of filing written or oral complaints.	N. William Fehrenbach Medtronic Neurological December 28, 2004 Written Comments	We disagree that it should be required for complaints to be made in a specified manner or via specific process.	None.
Section 9767.14	Suggests in addition to revoking or suspending MPN, automatic fines should be imposed for smaller violations	N. William Fehrenbach Medtronic Neurological December 28, 2004 Written Comments	We disagree. Section 9767.14 provides that the AD shall notify the MPN if there are deficiencies and shall allow the MPN the opportunity to correct the deficiency within ten days. If the deficiency has not been cured, the suspension or revocation will take effect. Currently, the DWC does not have additional staff to audit and impose fines for smaller violations.	None.
Section 9767.6	Subdivision (e) should not allow unlimited	John J. Tickner	We disagree. Labor Code section	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>changes of the treating physician. It contradicts Labor Code sections 4600, 4063 and 4050 and <i>Ralphs Grocery Co.</i> The changes should be limited by the “bounds of reason.”</p> <p>Labor Code 4616.3 provides that the employee has a right to be treated by a physician of his or her choice after the first visit from the MPN. If the employee disputes the diagnosis or the treatment prescribed by the treating physician, the employee may avail himself to the second and third opinion process. The employee does not have a right to change his or her treating physician other than through the dispute resolution process. Subdivision (d)(1)’s reference to treating physician and any subsequent physicians means the treating physician and the second and third opinion physicians. Thus, the employee has a right to change treating physicians, other than through dispute resolution, only once.</p> <p>Allowing an employee to change physicians more than once would undermine the dispute resolution process of Labor Code section 4616.3(c).</p> <p>The phrase “at any point in time,” as set forth in section 9767(e) goes beyond the statutory authority.</p>	<p>The Zenith January 10, 2005 Written comment</p>	<p>4616.3(b) provides that after the initial medical evaluation, the employee has a right to be treated by a physician of his or her choice from the MPN. Section 4616.3(d) refers to the employee’s selection of subsequent physicians. The statute does not limit the right of the employee to change physicians. Further, the insurer or employer controls and selects which physicians they want to participate in the MPN.</p> <p>The second and third opinion process allows an injured worker to dispute either the diagnosis or the treatment prescribed by the treating physician. (Labor Code section 4616.3(c).) An injured employee may wish to select a new physician, however, because, for example, he or she is not happy with the physician/patient relationship or because the physician is not the correct specialty for the type of injury.</p>	
Section 9767.7	Subdivisions (a) and (b) use the words “by the primary treating physician or the treating physician” whereas the statute uses only the words “by the treating physician.” The change may be erroneously construed as	<p>John J. Tickner The Zenith January 10, 2005 Written comment</p>	We disagree. See above.	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	recognizing a right of an employee to change treating network physicians without limitation and for the reasons stated above, would be invalid.			
Section 9767.12	Subdivision (a)(7) may be read as referring to an unlimited right to change treating physicians within the network.	John J. Tickner The Zenith January 10, 2005 Written comment	The employee has an unlimited right to change physicians within the MPN. See above.	None.
Section 9767.7	The 60 day period to make an appointment with the second or third opinion doctor is too long. The result will be an unnecessary extension of TD. Recommends 20 days.	Sharon L. Faggiano Employers Compensation Insurance Company January 20, 2005 written comment	We disagree. This is a maximum period. The employee should be allowed sufficient time to consider the diagnosis or treatment prescribed prior to waiving his or her right to a second or third opinion.	None.
Section 9767.3(d)(8)(C)	Commenter is concerned about the sale and resale of the physician contracts as well as discounted fees for physicians.	Robert R. Orford, MD, MS, MPH, FACOEM Steven Schumann, M.D. Western Occupational & Environmental Medical Association January 31, 2005 Written Comment	Labor Code section 4609 prohibits the improper selling, leasing or transferring of a health care provider's contract. To reinforce this, we will amend the subdivision to refer to this section.	The subdivision has been amended to state: "The MPN applicant shall confirm that the contractual agreement is in compliance with Labor Code section 4609."
	Requests that the subdivision be amended to read, "By submission of the application, the MPN applicant is confirming that a <u>direct</u> contractual agreement exists either between the MPN and the physicians, providers or medical group practice in the MPN or the MPN applicant and the physicians, providers, or medical group practice in the MPN." Also requests that the regulations require contracted fees between physicians, providers, or groups and MPNs to be no lower than the Official Medical Fee Schedule.		We disagree. Labor Code section 5307.1 provides that the official medical fee schedule establishes reasonable <u>maximum</u> fees paid for medical services. Subdivision (h) provides that nothing in this section shall prohibit an employer or insurer from contracting with a medical provider for reimbursement rates different from those prescribed in the	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			official medical fee schedule.	
Section 9767.5	The requirement that a MPN must have three physicians of each specialty is a problem for specialists required to treat less common injuries. Proposes section be amended to allow for creation of Centers of Excellence – a health care provider or facility designated and recognized as a best practice provider of a particular, highly specialized treatment.	Tamara Watt Robert C. Mortensen Value Story, Inc. January 31, 2005 Written Comment	We disagree. Labor Codes section 4616(a)(1) requires an adequate number and type of physicians to treat <i>common injuries</i> experienced by injured employees.	None.
Section 9767.5	Instead of requiring at least three physicians of each specialty in the MPN, employer could refer the employee to a physician in the network that is outside the geographic service area, if agreed to by the employee. With regard to second and third opinions, if sufficient MPN providers are not available, the IMR process is triggered.	Theresa Muir Joe Carresi Southern California Edison February 1, 2005 Written Comment	We disagree. Labor Code sections 4616.3 and 4616.4 provide the second and third opinion process. It is only after the third opinion that the employee may request an IMR.	None.
Section 9767.7(b) and (d)	Commenter suggests that the 60 day time frame to make an appointment with a second or third opinion physician be changed to 10 days.	Theresa Muir Joe Carresi Southern California Edison February 1, 2005 Written Comment	We disagree. This is a maximum period. The employee should be allowed sufficient time to consider the diagnosis or treatment prescribed prior to waiving his or her right to a second or third opinion.	None.
Section 9767.9(f)	Commenter recommends that the requirement that the employee notification be in a “language understandable to the employee” be changed to a requirement that the notification be in English and Spanish to be consistent with sections 9767.3(e)(11) and 9767.12 (a) and (b).	Theresa Muir Joe Carresi Southern California Edison February 1, 2005 Written Comment	We agree.	The section has been amended to require the notice to be in English and Spanish and written in layperson’s terms.
Section 9767.5(a)	Proposed change will require at least three physicians of each specialty within 30 minutes or 15 miles for primary and emergency care and 60 minutes or 30 miles for occupational health services and specialists of each covered employee’s residence or workplace.	Laura O’Leary Concentra February 1, 2005 Written comment	We disagree. Because Labor Code section 4661.3 requires that an injured employee may seek a second and third opinion if he or she disputes either the diagnosis or treatment prescribed, there must be a minimum of three physicians in each	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>Concentra recommends that section 9767.5(a) be removed from the final regulations for the following reasons:</p> <ul style="list-style-type: none"> • Including additional providers to a network could jeopardize a MPN's ability to ensure quality of care. Providers may be added to meet the quota rather than added to provide quality care. • The regulation does not address how this requirement would apply to those networks that have already received state approval; and • The benefits of economic profiling could be compromised. The MPN should have the ability to limit its network to only those providers with the best outcomes. 		specialty.	
Section 9767.5(a)	<p>Recommends changing language to require three physicians for each type of <i>medical license</i> expected to treat common injuries experienced by injured workers...instead of each specialty because various specialties can treat a variety of injuries, this requirement may be difficult for rural areas. This will penalize smaller networks.</p>	<p>Brenda Ramirez CWCI February 1, 2005 Written comment</p>	<p>We disagree. Labor Code section 4661.3 provides that the selection of physicians shall be based on the physician's <i>specialty</i> or recognized expertise in treating the particular injury or condition in question.</p>	None.
Section 9767.6(f)	<p>Should not preclude option of filing a Petition for Change of Treating physician for to conflicts of interest, unreasonable geographic area, reporting problems, or incorrect specialty. If retain Petition, could change requirement for panel of five physicians to allow employee to select new physician.</p>	<p>Brenda Ramirez CWCI February 1, 2005 Written comment</p>	<p>We disagree. Labor Code section 4616.3(b) provides that after the initial medical evaluation, the employee has a right to be treated by a physician of his or her choice from the MPN. Section 4616.3(d) refers to the employee's selection of subsequent physicians. The statute does not limit the right of the employee to change physicians.</p>	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			Further, the insurer or employer controls and selects which physicians they want to participate in the MPN.	
Section 9767.8(a)(2)	Opposes requirement to file a Modification of Plan Change before a change of 25% or more in the number of covered employees or 10% or more in the number of providers. Commenter states that this information will not help monitor the scope of the MPN, tracking the information will be difficult, it is unclear what they are to do until the modification is approved. Commenter also states that it although it is not possible to determine if the increase in population before it occurs, the regulations require the Modification to be filed before the change occurs. The regulations does not state if it applies to decrease and increase. The regulations do not state what the standards for approval or disapproval are. Recommends that if data is necessary, a simple notice of change in the population be reported.	Brenda Ramirez CWCI February 1, 2005 Written comment	We disagree. Section 9767.3(d)(8)(A) requires “the number of employees <i>expected</i> to be covered by the MPN plan.” A 25% change is a large proportion. The MPN must maintain access standards and appropriate specialties for the employees. Also, this requires a MPN to self-monitor	None.
Section 9767.8(j)	Corrections to the application form: <ul style="list-style-type: none"> • Correct the typographical error in item 8, replacing “one is” with “is one.” • Delete the fourth check box per above comment. If not, change language to “Change of 10% or more in Providers: provide the name, license number (if applicable) and location of each provider by type.” • Delete the fifth box per above comment. 	Brenda Ramirez CWCI February 1, 2005 Written comment	We agree with the first comment. We disagree with the second comment for the reasons stated above. We disagree with the third comment for the reasons stated above.	Re: the first comment. The typographical error was corrected. Re: the second comment, none. Re: the third comment, none.
Section 9767.9(f)	Recommends requiring the notice language to	Brenda Ramirez	We agree.	The section has been

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	be in English and Spanish instead of “a language understandable to the employee.” This would be consistent with notice requirements for 9767.3(e)(11) and 9767.12(a) and (b).	CWCI February 1, 2005 Written comment		amended to require the notice to be in English and Spanish and written in layperson’s terms.
Section 9767.3(e)(14)	Concerned that network capacity is not being verified.	Stephen Cattolica CSIMS and CSPM&R February 1, 2005 Written comment	We disagree. Per section 9767.3 and 9767.4, the MPN applicants are required to describe the number of employees expected to be covered by the plan, the geographic service area, the physicians and providers include, and how the MPN complies with the access standards. For entities that are HCOs, the MPN applicant must confirm that the number of employees is within the approved capacity. The application is verified by an officer or employee of the MPN applicant. Further, section 9767.8 requires MPN applicants to approval for any of the itemized modifications of the MPN. Also, section 9767.14 provides a process for revocation or suspension of the MPN for various reasons including if service under the MPN is not being provided according to the terms of the approved MPN plan and if the MPN fails to meet the requirements of the Labor Code and regulations.	None.
Section 9767.2(f)	Recommends adding new subdivision: <u>Certification as a medical provider network pursuant to section 4616 shall be for no more than three years from the original date of certification by the administrative director, or if the medical provider network was deemed approved pursuant to section 4616(b), no</u>	Stephen Cattolica CSIMS and CSPM&R February 1, 2005 Written comment	We disagree. Section 9767.8 requires the MPN applicants to file Notices of MPN Plan Modifications if any of the designated changes occur. Section 9767.14 provides a process for suspending or revoking approval of a MPN plan for the	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<u>more than three years from the date of deemed approval, at which time the medical provider network must apply for and be granted re-certification.</u>		reasons set forth in that section, which include failure to comply with the Labor Code and if service is not being provided according to the terms of the approved plan.	
Section 9767.3(e)(15)	Recommends additional language: Describe the number of ...within the approved capacity of the HCO <u>by attaching as an Exhibit to the Application, a complete and detailed explanation of how the health care organization providing health care services pursuant to this Section calculated that the estimated number of covered employees within a proposed Medical Provider Network Plan, when combined with the number of employees already covered by the health care organization at the time of application for certification under this Section, will not exceed the health care organization's capacity to provide services as certified by the administrative director.</u>	Stephen Cattolica CSIMS and CSPM&R February 1, 2005 Written comment	We disagree. Labor Code section 4616.7 provides that HCOs shall be deemed approved if it meets the percentage required for physicians primarily engaged in non occupational medicine.	None.
Section 9767.8	Recommended change: (a) The MPN Applicant shall serve ... <u>together with a written plan describing detailed steps and a time line for completion to cure, any access deficiencies caused by the following conditions, before the following</u> these conditions changes occur: (1) A <u>decrease</u> of 10% or more in the number of providers participating in the network, (2) An <u>increase</u> of 10% or more in the number of covered employees.	Stephen Cattolica CSIMS and CSPM&R February 1, 2005 Written comment	We disagree. The proposed language for (a) would allow access deficiencies to exist (until the time line for a cure is completed) which would be in violation of Labor Code section 4616(a)(1) and (2). The increase and decrease in the percentages of physicians and employees affects access and therefore both must be reported. Additionally, MPN applicants should be monitoring the MPN to be sure that the access standards are maintained. The requirements are set forth in section 9767.8.	None.
Section 9767.10	Recommended new language:	Stephen Cattolica	We disagree. Labor Code section	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<u>(5) A statement verifying that the Applicant's Economic Profiling Plan will be applied uniformly to all services provided by every provider within the MPN and all MPN providers need or exceed the standard(s) outlined in the Plan.</u>	CSIMS and CSPM&R February 1, 2005 Written comment	4616.1 defines “economic profiling” as “any evaluation of a particular physician, provider, medical group, or individual practice association...” The recommended language would conflict with the statutory definition.	
Section 9767.2	Concerned that MPNs that are deemed approved will never be reviewed. Suggests that they be considered provisional subject to a complete review.	Stephen Cattolica CSIMS and CSPM&R February 1, 2005 Written comment	We disagree. Labor Code section 4616(b) provides that the plan will be deemed approved if the AD fails to act in 60 days. It does not authorize a “provisional” status. Section 9767.14 provides a process for suspending or revoking approval of a MPN plan for the reasons set forth in that section, which include failure to comply with the Labor Code.	None.
Transfer of Care	Contentends there is no intent in Labor Code sections 4600 and 4616 that the Legislature meant to disrupt ongoing doctor/patient relationships. Cites <i>Zeeb</i> and <i>Voss</i> cases as support.	Stephen Cattolica CSIMS and CSPM&R February 1, 2005 Written comment	We disagree. Section 47 of SB 899 clearly states that the MPN statutes apply to all dates of injury. Labor Code section 4616 et seq. do not set forth an exception for injured workers with ongoing treatment. The statutory change requiring that employees currently undergoing medical treatment for a work-related injury be placed into a newly approved MPN is procedural and may be applied to pending cases even if the event underlying the cause of action occurred before the statute took effect. The statutory change does not substantially affect existing rights and obligations because the injured employee will still be able to	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			<p>choose his or her physician from among the network of physicians.</p> <p>In addition, it is possible that the employee's present treating physician could become a member of the MPN. The proposed regulations also contain safeguards to maintain the doctor-patient relationship and ongoing care in specific cases.</p> <p>The undisputed facts of <i>Zeeb</i> indicate that the holding in this case applies to those instances in which the employer has <i>refused</i> treatment. There is no indication that transferring employees currently undergoing medical treatment for a work-related injury into a newly approved medical provider network is in any way comparable to refusing them care.</p> <p><i>Voss v. WCAB</i>, like <i>Zeeb</i>, stands for the proposition that the employer will lose its right to control medical treatment if the employer improperly refuses to provide medical treatment. This holding does not apply to a situation where the employer continues to provide medical treatment to the injured employee, but pursuant to a change in the statute, offers treatment within a medical provider network.</p>	
Section 9767.2	Regarding the notification re (1) the date the	Kathleen Bissell	Labor Code section 4616 requires the	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	application was received and (2) informing the MPN applicant if the application was complete, suggests adding, <u>This will take place within 10 business days of either (1) or (2).</u>	Liberty Mutual February 2, 2005 Written comment	AD to “act on the plan within 60 days of submitting the plan,” or the MPN is deemed approved. There is no statutory requirement to act within ten days. Although the DWC will notify the applicants as soon as possible, imposing this deadline shortening the time will reduce the DWC’s staff’s ability to be flexible when processing the MPN application filings.	
Section 9767.3	Recommends removing subdivision (d)(8)(A) Describe the number of employees expected to be covered by the MPN plan; and including it as a part of the cover page under section 9676.4. This would add needed efficiency to the application process and remove unnecessary duplication of information.	Kathleen Bissell Liberty Mutual February 2, 2005 Written comment	We disagree. There is no duplication of information regarding the number of employees expected to be covered as the regulation is currently proposed. The cover sheet only requires information that identifies the MPN applicant and is used for initial intake information.	None.
Section 9767.6(b)	Recommends adding reference to Labor Code section 4610(g)(1) in order to clarify that it is not the intent of this subdivision to reduce the time for completing a utilization review to one day.	Kathleen Bissell Liberty Mutual February 2, 2005 Written comment	We disagree with the recommendation, however, the proposed change may clarify that this section is not referring to utilization review. We are replacing the word “authorize” with “provide” to clarify that the medical treatment must be allowed, not that it must go through a UR authorization procedure.	The section is modified to state, “...the employer or insurer shall provide for all treatment, consistent with guidelines...”
Section 9767.7(b)	Recommends adding “It is the employer’s or insurer’s responsibility to (1) provide a list of XX providers and/or specialists...” Also suggests that 3-5 providers be offered to the covered employee.	Kathleen Bissell Liberty Mutual February 2, 2005 Written comment	We disagree. Labor Code section 4616.3 provides that the employee may seek the opinion of a second or third physician in the MPN. There is no authority to limit employee’s choice to 3- 5 physicians.	None.
	Recommends that the time frame to make an appointment be changed from 60 days to 15		We disagree. This is a maximum period. The employee should be	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	days, or change the wording to “...appointment is not scheduled within 60 days of receipt.”		allowed sufficient time to consider the diagnosis or treatment prescribed prior to waiving his or her right to a second or third opinion.	
Section 9767.8	Recommends changing the 60 day approval date for plan modifications to 30 days as the review will be limited.	Kathleen Bissell Liberty Mutual February 2, 2005 Written comment	We disagree. The review may be performed in less than 60 days, however, shortening the time will reduce the DWC’s staff’s ability to be flexible when processing the MPN application and modification filings.	None.
Section 9767.9(e)(2)	Recommends a definition of “course of treatment.” Suggests “A course of treatment is defined as the completion of treatment with the guidelines which have been adopted by the Administrative Director pursuant to LC 5307.27 or, prior to the adoption of these guidelines, the ACOEM guidelines, shall be provided...”	Kathleen Bissell Liberty Mutual February 2, 2005 Written comment	We disagree. The treatment is already ongoing and authorized.	None.
Section 9767.9	<p>Contents DWC does not have authority to take away an employee’s vested right to keep a doctor that the employee designated to provide treatment for a future medical award prior to January 1, 2005.</p> <ul style="list-style-type: none"> • DWC lacks authority • The doctor patient relationship is a vested right • There must be good cause to change a physician • Cases <i>Voss</i> and <i>Zeeb</i> support commenter’s position • Retroactive application violates the due process of the law • The legislature did not intend to allow transfer of care for ongoing cases 	Patrick Shannon California Chiropractic Association February 2, 2005 Written comment	<p>We disagree.</p> <p>Section 47 of SB 899 clearly states that the MPN statutes apply to all dates of injury. Labor Code section 4616 et seq. do not set forth an exception for injured workers with ongoing treatment.</p> <p>The statutory change requiring that employees currently undergoing medical treatment for a work-related injury be placed into a newly approved MPN is procedural and may be applied to pending cases even if the event underlying the cause of action occurred before the statute took effect. The statutory change does not substantially affect existing</p>	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			<p>rights and obligations because the injured employee will still be able to choose his or her physician from among the network of physicians.</p> <p>In addition, it is possible that the employee's present treating physician could become a member of the MPN. The proposed regulations also contain safeguards to maintain the doctor-patient relationship and ongoing care in specific cases.</p> <p>The undisputed facts of <i>Zeeb</i> indicate that the holding in this case applies to those instances in which the employer has <i>refused</i> treatment. There is no indication that transferring employees currently undergoing medical treatment for a work-related injury into a newly approved medical provider network is in any way comparable to refusing them care.</p> <p><i>Voss v. WCAB</i>, like <i>Zeeb</i>, stands for the proposition that the employer will lose its right to control medical treatment if the employer improperly refuses to provide medical treatment. This holding does not apply to a situation where the employer continues to provide medical treatment to the injured employee, but pursuant to a change in the statute, offers treatment within a medical provider network.</p>	

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
Section 9767.1(a)(2)	Definition of covered employee does not exclude an injured worker who neither resides nor works within the geographical service area. Thus, a former employee who requires ongoing medical care who has moved outside the service area will not have readily available medical treatment. Recommends either (1) excluding from the definition of a covered employee an injured employee who neither works nor resides within the geographical service area of the MPN or (2) suspend or revoke the MPN whenever an injury occurs to an employee who neither works nor resides in the geographical service area.	Shawna Manning Ca. Labor Fed., AFL-CIO February 2, 2005 Written comment	We disagree with the comment. However, to clarify section 9767.5 is amended to require the MPN applicant to have a written policy for arranging and approving medical care for employees who are no longer	Section 9767.5(e) is amended to state, “The MPN applicant shall have a written policy for arranging or approving medical care for : (1)... and (2) employees who are no longer employed by the employer and permanently reside outside the MPN geographical service area.”
Section 9767.14(a)(2)	Commenter objects to the use of the term “may” as the statute requires that a MPN which is not in compliance must be suspended.	Shawna Manning Ca. Labor Fed., AFL-CIO February 2, 2005 Written comment	We disagree. As set forth in subdivision (b), the MPN applicant will be notified of the deficiency. If it is not cured within ten days, the suspension or revocation “shall” take effect. The purpose is to provide notice and allow a minimum time to cure the problem.	None.
Section 9767.1	Recommends amending section 9767.1(18) to state: “Primary treating physician” is the physician who is primarily responsible for managing the care of an employee at least once for the purpose of rendering or prescribing treatment and has monitored the effect of the treatment thereafter. “Physician” means a physician and/or surgeon, licensed pursuant to Chapter5 (commencing with Section 2000) of Division 2 of the Business and Professions Code. SCIF makes this suggestion because it recommends that only M.D. s and O.D. should	Jose Ruiz SCIF February 2, 2005 Written comment	We disagree. Labor Code section 4616 requires the MPN to include physicians as described in Labor Code section 3209.3. This section includes chiropractors and acupuncturists.	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	serve as primary treating physicians.			
Section 9767.5	Recommends replacing the requirement of “three physicians of each specialty expected to treat common injuries” with “three physicians qualified to treat common injuries.”	Jose Ruiz SCIF February 2, 2005 Written comment	We disagree. Labor Code section 4616.3 provides that the selection of physicians shall be based on the physician’s specialty or recognized expertise in treating the particular injury or condition in question.	None.
Section 9767.6(f)	Recommends reconsidering the proposal to prohibit the filing of a Petition for Change of Treating Physicians.	Jose Ruiz SCIF February 2, 2005 Written comment	We disagree. The MPN applicant has control over which physicians are chosen to participate in the MPN. It should not also be allowed to deny the employee the right to treat his or her physician of choice within the MPN. That would be contrary to Labor Code section 4616.3(b).	None.
Section 9767.7(a)	Disagrees that the employee may seek treatment from any physician of his or her choice during the second and third opinion process.	Jose Ruiz SCIF February 2, 2005 Written comment	We disagree. Labor Code section 4616.3 provides that the employee has a right to be treated by a physician of his or her choice. There is no prohibition during the second and third opinion process. Additionally, if the employee seeks treatment from a different physician, he or she may choose to discontinue the second and third opinion process which will reduce disputes.	None.
Section 9767.7(b) and (d)	Concerned that the 60 day timeframe to make an appointment is too long.	Jose Ruiz SCIF February 2, 2005 Written comment	We disagree. This is a maximum period. The employee should be allowed sufficient time to consider the diagnosis or treatment prescribed prior to waiving his or her right to a second or third opinion.	None.
	Also, commenter recommends a timeframe for the insurer to provide the medical records to the second and third opinion physician.		We disagree. Section 9767.7 requires that the records be sent prior to the appointment date.	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
Section 9767.8(a)(10 and (2)	Commenter does not see the need in reporting decreases of 25% or more in the number of employees or increases of 10% or more of physicians. This will lead to increased administrative costs.	Jose Ruiz SCIF February 2, 2005 Written comment	We disagree. Changes in the numbers of employees and physicians relate to access. For example, if there is a decrease in the number of physicians, then the information relating to the decrease of employees is also important. Additionally, MPNs should be continually monitored by the administrators for compliance, accuracy, and access. Requiring this information will help ensure that the physicians reported actually are participating in the MPN and that the estimated amount of employees is correct.	None.
Section 9767.9(d)	If the employee's physician becomes part of the MPN but the injured worker is not being transferred into the MPN, no notice to the employee should be required.	Jose Ruiz SCIF February 2, 2005 Written comment	We agree.	This section is amended
Section 9767.9(f)	Recommends the section be revised to read: "If the insurer intends to transfer medical care, once treatment is completed per section 9767.9(e)(1-4), the insurer shall notify the covered employee of the determination regarding the completion of treatment..."	Jose Ruiz SCIF February 2, 2005 Written comment	We agree with the principal, but have worded the amendment differently. No notice will be required if the provider continues to treat outside the MPN.	The section is revised to state, "...then the employer or insurer shall inform the injured covered employee and his or her physician or provider if his/her treatment is being provided by his/her physician or provider under the provisions of the MPN."
General and section 9767.9	Contends DWC does not have authority to take away an employee's vested right to keep a doctor that the employee designated to provide treatment for a future medical award prior to January 1, 2005.	J. David Schwartz, President CAAA February 2, 2005	We disagree. Section 47 of SB 899 clearly states that the MPN statutes apply to all dates of injury. Labor Code section	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<ul style="list-style-type: none"> • DWC lacks authority • The doctor patient relationship is a vested right • There must be good cause to change a physician • Cases <i>Voss</i> and <i>Zeeb</i> support commenter's position • Retroactive application violates the due process of the law • Medical control is a substantive right • The legislature did not intend to allow transfer of care for ongoing cases 		<p>4616 et seq. do not set forth an exception for injured workers with ongoing treatment.</p> <p>The statutory change requiring that employees currently undergoing medical treatment for a work-related injury be placed into a newly approved MPN is procedural and may be applied to pending cases even if the event underlying the cause of action occurred before the statute took effect. The statutory change does not substantially affect existing rights and obligations because the injured employee will still be able to choose his or her physician from among the network of physicians.</p> <p>In addition, it is possible that the employee's present treating physician could become a member of the MPN. The proposed regulations also contain safeguards to maintain the doctor-patient relationship and ongoing care in specific cases.</p> <p>The undisputed facts of <i>Zeeb</i> indicate that the holding in this case applies to those instances in which the employer has <i>refused</i> treatment. There is no indication that transferring employees currently undergoing medical treatment for a work-related injury into a newly approved medical provider network is in any way comparable to refusing</p>	

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
			<p>them care.</p> <p><i>Voss v. WCAB</i>, like <i>Zeeb</i>, stands for the proposition that the employer will lose its right to control medical treatment if the employer improperly refuses to provide medical treatment. This holding does not apply to a situation where the employer continues to provide medical treatment to the injured employee, but pursuant to a change in the statute, offers treatment within a medical provider network.</p>	
9767.5	Commenter states that the regulations do not provide meaningful interpretation re “an adequate number and type of physicians,” and the requirement that medical treatment be “readily available and readily accessible.”	J. David Schwartz, President CAAA February 2, 2005	We disagree. Section 9767.5 provides access standards based on numbers of physicians, types of physicians and distance based on minutes and miles from the employee’s residence or workplace. It also provides time frames for when medical care must be provided.	None.
9767.6(d)	<p>Change to this section removes the only shred of protection previously given to the injured worker under the emergency regulations regarding the notification to the employee of his or her right to be treated by a physician of his or her choice and the method by which the list of participating providers may be accessible by the employee as required per Labor Code section 4616.3. MPN may wait until after the first visit to inform the worker of the right to select another physician.</p> <p>Initial appointments should be required within 24 hours. Subsequent appointments should be required in 2 or 3 calendar days.</p>	J. David Schwartz, President CAAA February 2, 2005	<p>We disagree. Section 9767.12 requires notification to be sent the employees prior to the implementation of an approved MPN, at the time of hire, or when an existing employee transfers into the MPN. Notification must also be sent to the employee at the time of injury.</p> <p>We disagree. Section 9767.5 provides that for non-emergency services, the initial appointment shall be available within 3 business days.</p>	<p>None.</p> <p>None.</p>

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>List of MPN providers should be mailed with 24 hours of receiving the request.</p> <p>All MPN providers should be posted on the DWC website.</p>		<p>Subsequent visits depend on the advice of the treating physician.</p> <p>We disagree. Section 9767.12 requires notification to be sent the employees prior to the implementation of an approved MPN, at the time of hire, or when an existing employee transfers into the MPN. Notification must also be sent to the employee at the time of injury. The notification must tell the employee how to review, receive or access the MPN provider directory.</p> <p>We disagree. The DWC does not currently have the staff and resources to accommodate this recommendation.</p>	<p>None.</p> <p>None.</p>
9767.6(c)	The notice required by this section should include a toll-free telephone number	J. David Schwartz, President CAAA February 2, 2005	We agree.	Section 9767.12(a)(1) has been amended to state, "The employer or insurer shall provide a toll free telephone number if the MPN geographical area includes more than one area code."
9767.12	<p>Recommends amending to require that the injured worker be provided full information regarding the procedures for accessing care outside the geographical treatment area of the MPN.</p> <p>This section should also include a requirement</p>	J. David Schwartz, President CAAA February 2, 2005	We agree.	Section 9767.12(a)(5) has been amended to state: "How to access treatment if the employee is authorized by the employer to temporarily work or travel for work

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	to describe to the injured worker how he or she can access a specialist who is not a member of the MPN.			outside the MPN's geographical service area or if the injured employee is no longer employed by the employer and permanently resides outside the MPN geographical service area."
9767.7(b) and (d)	<p>DWC does not have authority to limit the right of the employee to seek a second or third opinion. Therefore, the waiving the right if the employee does not schedule an appointment within 60 days should be stricken.</p> <p>DWC does not have authority to limit the list of providers given to the worker following a second or third opinion to a certain specialty or expertise. The second sentence of these subdivisions should be amended to delete "based on the specialty or recognized expertise in treating the particular injury or condition in question..."</p> <p>The subdivisions should be amended to require the employer or insurer to inform the employee that he or she has a right to receive</p>	J. David Schwartz, President CAAA February 2, 2005	<p>We disagree. If an appointment is not sought within 60 days, it is likely that the condition will have changed and the disputed diagnosis or treatment is not longer applicable. The injured worker may still have a second and third opinion as long as it concerns a different diagnosis or treatment. The time limit is set so that the other parties will know if the employee chosen not to continue with the dispute process but failed to notify the parties.</p> <p>We disagree. The second sentence is based on Labor Code section 4616.3(d)(1).</p> <p>We agree.</p>	<p>None.</p> <p>None.</p> <p>Section 9767.7(b) and (d) are amended to require the employer or insurer to</p>

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	<p>copies of the medical records.</p> <p>All requirements for notices should also be sent to the employee's representative, if any.</p>			inform the employee of his or her right to request a copy of the medical records that will be sent to the second or third opinion physician.
9767.7	A new subdivision should be added to require that any recommended treatment shall be authorized by the employer within one day of receiving the recommendation.	J. David Schwartz, President CAAA February 2, 2005	We agree.	Subdivision (f) is amended to state, "The employer or insurer shall permit the employee to obtain the recommended treatment within the MPN."
9767.3(a) and (b)	<p>There is no authority in the Labor Code for an insurer to have more than one MPN. Labor Code section 4646(a)(1) says and insurer or employer may establish or modify "a medical provider network." This allows insured employer to have their own MPNs as long as it is established by the insurer.</p> <p>Recommends amending subdivision (a) to state "a medical provider network," and delete subdivision (b).</p>	J. David Schwartz, President CAAA February 2, 2005	We disagree. The statute does not limit the right of an employer or insurer to establish more than one MPN.	None.
Section 9767.6(c)	An injured worker receiving medical treatment under Labor Code section 5402(c) before the employer has accepted liability for the claim is not required to receive treatment through an MPN. Treatment under Labor Code section 4600 only applies to an accepted injury. Section 9767.6(c) should be amended to read "If the injured employee chooses to receive treatment from providers in an MPN, the ..." "Accepted or" should precede the word "rejected."	J. David Schwartz, President CAAA February 2, 2005	We disagree with this interpretation. If it were accurate, employees who choose to be treated by a physician outside the MPN prior to acceptance would then be transferred into the MPN once the claim was accepted which would cause disruption of medical treatment.	None.
Section 9767.11	This section should be amended to establish standards that assure that any economic	J. David Schwartz, President	We disagree. The section complies with Labor Code section 4616.1.	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	profiling policy does not adversely affect the ability of the injured worker to receive all necessary medical treatment consistent with Labor Code section 4600 and to assure that decisions regarding provider termination do not adversely affect providers in such a way that it affects the provision of medical treatment.	CAAA February 2, 2005		
Section 9767.12	<p>Worker should be informed that the employer is required to provide access to care within the required time frame and access standards.</p> <p>The worker must be informed of all similar statutory or regulatory requirements applicable to the employer or MPN so that the worker can protect his or her rights and receive all necessary and appropriate treatment.</p> <p>One way to do this is to require all applications be submitted in an electronic form and posted on the DWC website.</p> <p>Require every MPN to maintain and promote a toll free number that an injured worker can use to obtain a listing of participating physicians, a description of the process for obtaining out of area coverage or treatment through outside providers, or other information regarding the network. The program must have the ability to communicate with workers in their primary language.</p>	J. David Schwartz, President CAAA February 2, 2005	<p>We disagree that the section needs to be amended. It requires the MPN to describe the MPN services, how to access initial and subsequent care, how to choose a physician, and what to do if an employee has trouble obtaining an appointment.</p> <p>Same as above.</p> <p>We disagree. The DWC does not have the staff to maintain such a site at this time.</p> <p>We agree.</p>	<p>None.</p> <p>None.</p> <p>None.</p> <p>Section 9767.12(a)(1) has been amended to state, "The employer or insurer shall provide a toll free telephone number if the MPN geographical area includes more than one area code."</p>

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	Any requested information must be mailed to the worker within 24 hours.		We disagree. The section provides that the MPN must state how the employee may access or review or receive the provider listing. Mailing is not always the preferred method for employee; many would prefer to access on line.	None.
Section 9767.9	<p>Commenter objects to the retroactive application that allows transfer of ongoing care into the MPN.</p> <p>Commenter objects to the 30 day time limit for acute conditions as arbitrary and beyond the AD's authority.</p>	<p>Peggy Sugarman, Executive Director Mark Hayes, President VotersInjuredAtWork.org February 2, 2005 Written Comment</p>	<p>We disagree.</p> <p>Section 47 of SB 899 clearly states that the MPN statutes apply to all dates of injury. Labor Code section 4616 et seq. do not set forth an exception for injured workers with ongoing treatment.</p> <p>The statutory change requiring that employees currently undergoing medical treatment for a work-related injury be placed into a newly approved MPN is procedural and may be applied to pending cases even if the event underlying the cause of action occurred before the statute took effect. The statutory change does not substantially affect existing rights and obligations because the injured employee will still be able to choose his or her physician from among the network of physicians.</p> <p>We disagree. It is appropriate to define terms used in the statute. The 30 day limit is based on standard medical definitions.</p>	<p>None.</p> <p>None.</p>
Section 9767.3(a) and	Commenter objects to the subdivisions that	Peggy Sugarman,	We disagree. The statute does not	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
(b)	allow an insurer to establish more than one MPN and states statute allows insurers only one MPN.	Executive Director Mark Hayes, President VotersInjuredAtWork.org February 2, 2005 Written Comment	limit the right of an employer or insurer to establish more than one MPN.	
Section 9767.3(d)	Commenter states that the subdivision describes the information required to be submitted for approval of a MPN but sets no minimum standards or grounds for which the plan would be considered inadequate.	Peggy Sugarman, Executive Director Mark Hayes, President VotersInjuredAtWork.org February 2, 2005 Written Comment	We disagree. Section 9767.5 provides access standards based on numbers of physicians, types of physicians and distance based on minutes and miles from the employee's residence or workplace. It also provides time frames for when medical care must be provided.	None.
Section 9767.14	The regulations should include a system for active oversight or audits by the DWC to insure that the plans are in compliance.	Peggy Sugarman, Executive Director Mark Hayes, President VotersInjuredAtWork.org February 2, 2005 Written Comment	We disagree. Section 9767.8 requires MPN applicants to seek approval is it makes any of the itemized modifications to the MPN. Section 9767.14 provides a process for revocation or suspension of the MPN if service under the MPN is not being provided according to the terms of the approved MPN plan or if it is not meeting the requirements of the Labor Code and regulations.	None.
Section 9767.1(a)(2)(B)	The regulations should clarify that the predesignation under Labor Code section 4600(d) does not require a written attestation from the predesignated physician.	Peggy Sugarman, Executive Director Mark Hayes, President VotersInjuredAtWork.org February 2, 2005 Written Comment	This comment goes beyond the scope of these regulations. Regulations on predesignation will address this issue.	None.
Section 9767.2(a)	Disagrees with starting a new 60 day review period when an application is corrected and resubmitted to the DWC.	Samuel Sorich President Association of California Insurance Companies February 2, 2005 Written comments	We disagree. If the applicant has failed to submit a complete application is it not approved. It may submit a new application, but a new 60 day period begins.	None.
Sections	Insurers do not collect information on the	Samuel Sorich	We disagree. The section does not	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
9767.3(d)(8)(A), 9767.8(a)(2) and 9767.3(e)(15)	number of covered employees of each policy holder. Commenter requests the provisions that require insurers to provide information on the number of employees be deleted.	President Association of California Insurance Companies February 2, 2005 Written comments	request an exact count – it requires a description of the number of employees expected to be covered by the MPN plan. This information is necessary for the MPN applicant to determine that it will be able to provide adequate access.	
Section 9767.7	Commenter believes the 60 day timeframe to make an appointment is too long. Recommends that the amount of time be changes to 10 – 20 days. The employee, not he employer or insurer, should be the party to notify the second or third physician about the nature of the dispute.	Samuel Sorich President Association of California Insurance Companies February 2, 2005 Written comments	We disagree. This is a maximum period. The employee should be allowed sufficient time to consider the diagnosis or treatment prescribed prior to waiving his or her right to a second or third opinion.	None.
Section 9767.9(f)	Requests that the language of the notification be amended to be consistent with the English – Spanish requirements of section 9767.12.	Samuel Sorich President Association of California Insurance Companies February 2, 2005 Written comments	We agree.	The section has been amended to require the notice to be in English and Spanish and written in layperson's terms.
Section 9767.2(b)	Suggests adding this sentence to (b): "This will take place within 10 business days of either (1) or (2)."	Samuel Sorich President Association of California Insurance Companies February 2, 2005 Written comments	We disagree. Labor Code section 4616 requires the AD to act on the plan within 60 days of submitting the plan. There is no statutory requirement to act within ten days. Although the DWC will notify the applicants as soon as possible, imposing this deadline shortening the time to ten days will reduce the DWC's staff's ability to be flexible in when processing the MPN application filings.	None.
Section 9767.8(e)	Suggests that the time frame for the initial approval in (e) be shortened from 60 days to	Samuel Sorich President	We disagree. The review may be performed in less than 60 days,	None.

Medical Provider Network Regulations	WRITTEN COMMENTS 45 DAY COMMENT PERIOD (December 15, 2004 – February 2, 2005)	NAME OF PERSON/ AFFILIATION	RESPONSE	ACTION
	30 days.	Association of California Insurance Companies February 2, 2005 Written comments	however, shortening the time will reduce the DWC's staff's ability to be flexible when processing the MPN application and modification filings.	
Section 9767.3(d)(8)(c)	<p>Suggests the following language:</p> <p>By submission of the application, the MPN applicant is confirming that a <u>direct written contractual agreement</u> exists either between the MPN and the physicians and provider in the MPN or the MPN applicant and the physicians and providers in the MPN, <u>and that one of the terms of the agreement is that the physician or other provider agrees to be part of the MPN and agrees to accept Workers' Compensation patients. "Direct written contractual agreement" means that the contract is directly between a physician or other provider and the MPN or the MPN applicant, and not with a third party that assigns the contract to the MPN or the MPN applicant.</u></p>	Ron Cowell, MD President, COMP February 2, 2005 Written comments	We disagree with requiring a direct written contract. We agree to require compliance with Labor Code section 4609.	The subdivision will be amended to comply with Labor Code section 4609.